



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 22 2011

VIA FIRST CLASS MAIL AND FACSIMILE

Steven H. Sholk, Esq.
Gibbons, P.C.
One Gateway Center
Newark, NJ 07102-5310

RE: MUR 6468
Empire State Regional Council of
Carpenters, *et. al.*

Dear Mr. Sholk:

On August 17, 2011, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Empire State Regional Council of Carpenters ("Empire State") now known as Northeast Regional Council of Carpenters, as successor-in-interest, and its separate segregated fund, the Empire State Regional Council of Carpenters Political Action Fund-Federal and William R. Banfield, in his official capacity as treasurer ("Federal PAC") (collectively, "Respondents"). The Commission accepted the conciliation agreement in settlement of violations of 2 U.S.C. § 432(b)(2) and 11 C.F.R. §§ 102.6(c)(4) and 102.8(b) by Empire State, and of 2 U.S.C. §§ 432(b)(2) and 434(b) and 11 C.F.R. § 102.6(c)(1) by the Federal PAC. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Audra Hale-Maddox
Attorney

Enclosure
Conciliation Agreement

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Empire State Regional Council of)
Carpenters, now known as Northeast)
Regional Council of Carpenters, as)
successor-in-interest)
Empire State Regional Council of)
Carpenters Political Action Fund-Federal)
and William R. Banfield, in his)
official capacity as treasurer)

This matter was initiated by a *sua sponte* submission made to the Federal Election Commission (“the Commission”) by the Empire State Regional Council of Carpenters (“Empire State”) now known as Northeast Regional Council of Carpenters, as successor-in-interest, and its separate segregated fund, the Empire State Regional Council of Carpenters Political Action Fund-Federal and William R. Banfield, in his official capacity as treasurer (“Federal PAC”) (collectively, “Respondents”). The Commission found reason to believe that Empire State violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. §§ 102.6(c)(4) and 102.8(b), and that the Federal PAC violated 2 U.S.C. §§ 432(b)(2) and 434(b) and 11 C.F.R. § 102.6(c)(1).

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Empire State Regional Council of Carpenters was a New York carpenter's and joiner's union formed in July 2001 from the merger of three pre-existing New York unions. Empire State is a labor organization within the meaning of 2 U.S.C. § 441b(b)(1). On April 5, 2011, the Empire State Regional Council of Carpenters merged with another union to form the Northeast Regional Council of Carpenters. The Northeast Regional Council of Carpenters is a party to this matter solely as successor-in-interest to the Empire State Regional Council of Carpenters. Although the Northeast Regional Council of Carpenters was not the focus of the Commission's reason to believe findings in this matter, the Northeast Regional Council of Carpenters recognizes that it is a respondent herein as successor-in-interest to Empire State and is thus bound by this Conciliation Agreement.

2. The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits labor organizations from making contributions in connection with Federal elections. 2 U.S.C. § 441b(a). However, it permits labor organizations to establish and administer separate segregated funds for political purposes and to solicit contributions to those funds from members and their families. 2 U.S.C. § 441b(b)(2)(C) and (4)(A)(ii).

3. The Empire State Regional Council of Carpenters Political Action Fund – Federal is the separate segregated fund of the Empire State Regional Council of Carpenters within the meaning of 2 U.S.C. § 441b(b)(2)(C) and 11 C.F.R. § 114.5. The Federal PAC is a political committee within the meaning of 2 U.S.C. § 431(4). William R. Banfield is the current treasurer of the Federal PAC, and was not the treasurer at the time of the activity addressed in this Agreement.

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4. Upon the formation of Empire State in July 2001, the Federal PAC took over the PAC previously operated by one of the three pre-existing New York unions that merged to form Empire State – the Suburban New York Council of Carpenters PAC. On March 11, 2002, the Federal PAC amended the Suburban New York Council of Carpenters PAC's Statement of Organization with the Commission, and at all times subsequent, the Federal PAC has been registered with the Commission as a political committee pursuant to 2 U.S.C. § 433.

5. Empire State serves as the collecting agent for the Federal PAC. A "collecting agent" is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related. 11 C.F.R. § 102.6(b)(1). The connected organization of a separate segregated fund may act as its collecting agent. 11 C.F.R. § 102.6(b)(1)(ii).

6. Pursuant to 2 U.S.C. § 432(b)(2)(A) and 11 C.F.R. § 102.8(b)(1), every person who receives a contribution of \$50 or less for a political committee that is not an authorized committee of a candidate shall forward such contribution to the treasurer of the committee within 30 days of receipt.

7. A collecting agent must transmit to the treasurer of a separate segregated fund for which it collects contributions the full amount of each contribution collected within 30 days of receipt, in the case of contributions of \$50 or less, pursuant to 11 C.F.R. § 102.8(b). 11 C.F.R. § 102.6(c)(4).

8. For purposes of making transmittals of contributions received in forms other than checks made payable to the separate segregated fund, the collecting agent must either: 1) set up a transmittal account to be used solely for the deposit and transmittal of funds collected on behalf of the separate segregated fund; or 2) deposit such contributions into the collecting

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agent's treasury account, keeping separate records; or 3) deposit them into an account used only for State and local election activity. 11 C.F.R. § 102.6(c)(4)(ii).

9. A separate segregated fund for which funds are being collected by a collecting agent is responsible for ensuring that its collecting agent complies with the applicable recordkeeping, reporting and transmittal requirements of the Commission's regulations.

11 C.F.R. § 102.6(c)(1).

10. Political committees (other than authorized committees of candidates) are required to report to the Commission, for the reporting period and the calendar year, the total amount of all receipts. 2 U.S.C. § 434(b)(2).

11. At all times relevant hereto, Empire State's members could make political contributions, by means of payroll deduction, to both the Federal PAC and to Empire State's non-federal State and local political committee, the New York State Political Action Committee ("NYS PAC").

12. The contributions card by which Empire State solicited contributions to its Federal PAC and its non-federal political committee stated that "all contributions may be made to either the Federal PAC or the NYS PAC, or may be divided among the two PACs in the discretion of the Treasurers of the PACs."

13. Beginning with the founding of Empire State in its current form in July 2001, and continuing through April 2010, Empire State maintained an escrow account into which it deposited its members' political contributions. The amounts contained in the escrow account totaled \$2,174,348.09.

14. None of these funds were transferred from the escrow account to the Federal PAC within 30 days of receipt.

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15. The Federal PAC did not report any of the funds available to it in the escrow account as cash on hand on its FEC disclosure reports.

V. 1. Empire State violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c)(4) by failing to transfer funds from its collecting agent accounts to the Federal PAC in a timely manner.

2. The Federal PAC violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c)(1) by failing to ensure that its collecting agent, Empire State, forwarded funds to it in a timely manner.

3. The Federal PAC violated 2 U.S.C. § 434(b) by failing to disclose the cash-on-hand available to it in the escrow accounts.

VI. 1. Respondents will cease and desist from violating 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c).

2. The Federal PAC will cease and desist from violating 2 U.S.C. § 434(b).

3. Respondents will pay a civil penalty to the Federal Election Commission in the amount of seventy-five thousand dollars (\$75,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

4. The Federal PAC will amend its disclosure reports to reflect the available cash-on-hand for the reporting periods from the initiation of its reporting through the present. The Federal PAC will be allowed to file one omnibus amended report to reflect all applicable cash-on-hand balances through the present.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof

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has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission, with the exception of Section VI. 4. Respondents shall have no more than 60 days to comply with and implement the requirements of Section VI. 4, concerning filing amended disclosure reports with the Commission.

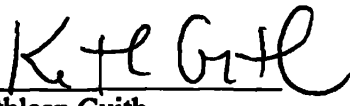
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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Christopher Hughey
Acting General Counsel


BY:


Kathleen Guith
Acting Associate General Counsel
for Enforcement

Date

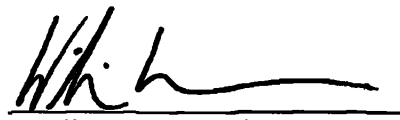
8/22/11

FOR THE RESPONDENTS:


Michael Capelli
Executive Secretary-Treasurer
Northeast Regional Council of Carpenters,
formerly known as Empire State Regional
Council of Carpenters

Date

8/1/2011


William R. Banfield
Treasurer
Empire State Regional Council
of Carpenters Political Action
Fund-Federal

Date

7/26/11

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